IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 1ST MARCH 2007 / 10TH PHALGUNA 1928

WP(C).No. 6928 of 2007(Y)

ST.3386/2004 of C.J.M.PALAKKAD

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PETITIONER:

M.G.MURUKESAN, S/O. GANAPATHI,
MANAKKAMPAD, KINAVALLUR P.O., PARLI,
PALAKKAD DISTRICT.

BY ADV. SRI.T.K.CHINNAN

RESPONDENTS:

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1. SHRIRAM INVESTMENTS LTD.,
2ND FLOOR, SUNSHINE COMPLEX, T.B.ROAD,
PALAKKAD, REPRESENTED BY ASSISTANT BRANCH MANAGER
AND POWER OF ATTORNEY HOLDER MR. M.K.SUMESH.

2. THE SUB INSPECTOR OF POLICE,
MANKARA POLICE STATION, MANKARA,
PALAKKAD DISTRICT.

R2 BY GOVT. PLEADER SRI. GIKKU JACOB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R. BASANT, J.

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W.P.C.No. 6928 of 2007 Y

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Dated this the 1st day of March, 2007

JUDGMENT

The petitioner faces indictment in a prosecution under Section 138 of the N.I. Act. The case is numbered as S.T. 3386 of 2004. The petitioner has not so far appeared before the learned Magistrate. According to him, he had no notice of the proceedings and he was never called upon to appear before the learned Magistrate.

2. The petitioner is now prepared to appear before the learned Magistrate. He apprehends that when he surrenders and applies for bail, his application will not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is in these circumstances prayed that appropriate directions under Article 226 of the Constitution may be issued to the learned Magistrate to release the petitioner on bail.

2. No such direction can or need be issued. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to

assume that the learned Magistrate would not consider the application for bail on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

3. This Writ Petition is accordingly dismissed, but subject to the above observations/directions. I may hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R. BASANT)
Judge

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